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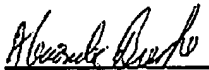
To:	Examiner: Lev Nguyen	From:	Alexander J. Burke
Fax:	571-273-8300	Pages:	52
Phone:	571-272-4068	Date:	December 19, 2005
Re:	Application of: K. O'Rourke Serial No. 09/939,886 Art Unit: 2174		

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Attached is the following: Appeal Brief 51 pp

For Application No.: 09/939,886
Filing Date: August 27, 2001
First Named Inventor: K. O'Rourke
Group Art Unit: 2174
Attorney Docket: 2001P07800US01

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Serial No.: 09/939,886

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Board of Patent Appeals and Interferences

Applicants : K. O'Rourke

Serial No. : 09/939,886

Filed : August 27, 2001

For : A SYSTEM AND USER INTERFACE FOR COMMUNICATING AND
PROCESSING PATIENT RECORD INFORMATION

Examiner : Le V Nguyen

Art Unit : 2174

APPEAL BRIEF

May It Please The Honorable Board:

Appellants appeal the Final Rejection, dated March 2, 2005, of Claims 1 - 22 of the above-identified application. The fee of five hundred dollars (\$500.00) for filing this Brief and any associated extension fee is to be charged to Deposit Account No. 19-2179. Enclosed is a single copy of this Brief.

Please charge any additional fee or credit any overpayment to the above-identified Deposit Account.

Appellants do not request an oral hearing.

I. REAL PARTY IN INTEREST

The real party in interest of Application Serial No. 09/939,886 is the Assignee of record:

12/21/2005 EFLORES 00000151 192179 09939886

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II. RELATED APPEALS AND INTERFERENCES

There is currently a co-pending appeal in related application serial number 09/939,965. The present application and the application serial number 09/939,965 claim priority from the same Provisional Application Serial No. 60/287,644.

An Appeal Brief in related application serial number 09/939,899 was filed on July 7, 2005. The present application and application serial number 09/939,899 claim priority from the same Provisional Application Serial No. 60/287,644. In response to the Appeal Brief filed July 7, 2005, a Final Office Action was mailed on October 7, 2005. The time period for responding to this Final Office Action is currently pending.

III. STATUS OF THE CLAIMS

Claims 1-22 are rejected and the rejection of claims 1-22 are appealed.

IV. STATUS OF AMENDMENTS

All amendments were entered and are reflected in the claims included in Appendix L.

V. SUMMARY OF CLAIMED SUBJECT MATTER

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Independent claim 1 describes a method for transferring medical record information of a patient between portable processing devices (page 5, lines 9-10). On a first portable processing device (page 5, line 10), information to be transferred is selected in response to user command (Fig. 2, 215) and a bidirectional communication link is established with a second portable processing device (page 2, lines 15-16). The first portable processing device communicates patient identification information and the selected information on the established communication link (page 4, lines 11-14) in response to user selection of a displayed icon (page 2, lines 15 - 18; Fig 4, 410).

Dependent claim 2 includes the features of independent claim 1 along with the additional feature that the established communication link with the second portable processing device includes a wireless link (page 4, lines 14-19). Additionally, the step of selecting information to be transferred includes selecting at least one of, (a) medical information associated with a plurality of patients, (b) medical information associated with a specific patient, (c) laboratory test results for a specific patient, (d) a medical report associated with a plurality of patients and (e) medical information associated with a specific healthcare provider and an associated group of patients (page 6, lines 20-26).

Dependent claim 3 includes the features of claim 2 and independent claim 1 along with the additional feature that the step of selecting information to be transferred includes the step of supporting user navigation, in response to user command, through a plurality of display images to enable selection of the information to be transferred (page 6, lines 17-20).

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Dependent claim 4 includes the features of independent claim 1 along with the additional feature that the method of transferring patient record information between portable processing devices is configured by pre-selecting data elements comprising the patient identification information (page 6, lines 1-4; Fig 2, 205).

Dependent claim 5 includes the features of claim 4 and independent claim 1 along with the additional feature that the data elements comprising the patient identification information include at least two of (a) username, (b) password, (c) patient identifier, (d) patient gender identifier, (e) patient birth date and (f) calling application identification supporting return of control to the calling application upon completion of communication on an established communication link (page 6, lines 4-7).

Dependent claim 6 includes the features of independent claim 1 along with the additional feature that user authorization to access the selected information is validated and communication of the selected information on the established communication link is inhibited in response to unsuccessful validation of user authorization to access the selected information (Fig 2, 220).

Dependent claim 7 includes the features of independent claim 1 along with the additional feature that a second user authorized to access the selected information is validated. The second user is an intended recipient of the communicated selected information and the communication of the selected information on the established communication link is inhibited in response to unsuccessful validation of second user authorization to access the communicated selected information (Fig 2, 225).

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Dependent claim 8 includes the features of claim 7 and independent claim 1 along with the additional feature that second user authorization information identifying a second user authorized to access the selected information is received (Fig 2, 225).

Dependent claim 9 includes the features of independent claim 1 along with the additional feature that a plurality of communication settings associated with a plurality of corresponding communication links are stored (page 5, line 33-page 6, line 1) and communication on individual communication links is sequentially initiated, one at a time, using associated corresponding communication settings until an acknowledgement is received within a predetermined time-out window indicating a communication link with a second portable processing device is established (page 6, lines 10-16).

Dependent claim 10 includes the features of claim 9 and independent claim 1 along with the additional feature that the plurality of communication links comprise at least two (a) connection via a PC compatible serial port, (b) connection via an infra-red link to a PC compatible serial port, (c) connection via an Ethernet compatible network (d) connection via an infra-red link to an Ethernet compatible network and (e) a wireless network connection (page 5, lines 20-29).

Dependent claim 11 includes the features of claim 9 and independent claim 1 along with the additional feature that the step of sequentially initiating communication is performed automatically upon detection of a lost connection to support seamless operation of the portable processing device (page 6, lines 10-12).

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Dependent claim 12 includes the features of claim 9 and independent claim 1 along with the additional feature that the established communication link with the second portable processing device includes a wireless link (page 5, lines 19-29) and the communication settings comprise a set of communication settings applicable to a corresponding individual communication link (page 5, line 33 – page 6, line 2).

Dependent claim 13 includes the features of claim 12 and independent claim 1 along with the additional feature that the set of communication settings include at least two of, (a) data rate, (b) protocol identifier, (c) sender identifier code, (d) error handling code identifier and (e) data format identifier (page 6, lines 8-10).

Dependent claim 15 includes the features of claim 9 and independent claim 1 along with the additional feature that the step of communicating at least two of (a) username, (b) password, (c) patient identifier, (d) patient gender identifier, (e) patient birth date and (f) calling application identification supporting return of control to the calling application upon completion of communication on an established communication link, is included (page 6, lines 4-7).

Dependent claim 16 includes the features of claim 9 and independent claim 1 along with the additional feature that the step of initiating communication is repeated for a predetermined number of times until a connection is established or a communication failure is declared (page 6, lines 12-16).

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Independent claim 17 describes a method for receiving medical record information communicated to a first receiving portable processing device from a second portable processing device (page 7, lines 32-34). On a first receiving portable processing device, user authorization to access medical information is validated (Fig 3, 315) and a bidirectional communication link is established with a second portable processing device (page 8, lines 2-5). Access to the medical information is inhibited in response to unsuccessful validation of user authorization (Fig. 3, 315). The access is inhibited by performing at least one of, (a) inhibiting receiving the medical information and associated patient identification information on the established communication link, and (b) inhibiting storing the medical information and associated patient identification information received on the established communication link (page 8, lines 10-13; Fig. 3, 315).

Independent claim 22 describes a system for transferring medical record information of a patient between portable processing devices (page 2, lines 12 - 14). A first portable processing device (page 5, line 10) includes a navigation processor supporting user navigation and selection of information to be transferred (page 4, lines 9-11) and a communication network (Fig 1, 17). The communication network establishes a bidirectional communication link with a second portable processing device (page 5, lines 19-32; Fig 2, 230) and communicates patient identification information and the selection information on the established communication link (Fig 2, 235) in response to user selection of a displayed icon (Fig 4, 410).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

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Claims 1-8 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mayaud (U.S. Patent 5,845,255) in view of Evans (U.S. Patent 5,924,074).

Claims 9, 10 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mayaud (U.S. Patent 5,845,255) in view of Evans (U.S. Patent 5,924,074) and further in view of Microsoft Internet Explorer 5.0 (IE).

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mayaud (U.S. Patent 5,845,255) in view of Evans (U.S. Patent 5,924,074) and in view of Microsoft Internet Explorer 5.0 (IE) and further in view of Rothschild (U.S. Patent application 2002/0019751).

VII. ARGUMENT

Mayaud, Evans, Internet Explorer 5.0, and Rothschild alone or in any combination neither anticipate nor make unpatentable the present claimed invention. Thus, reversal of the Final Rejection (hereinafter termed "rejection") of claims 1 – 22 under 35 U.S.C. § 103(a) is respectfully requested.

Overview of the Cited Reference

Mayaud recites a wirelessly deployable, electronic prescription creation system for physician use. The system captures into a prescription a patient condition-objective of the prescribed treatment and provides for patient record assembly from source elements, with privacy controls for patient and doctor, adverse indication review and online access to comprehensive drug information including scientific literature. Extensions to novel multi-drug

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packages and dispensing devices, and an "intelligent network" remote data retrieval architecture as well as onscreen physician-to-pharmacy and physician-to-physician e-mail are also provided (see Abstract).

Evans recites a medical records system that creates and maintains all patient data electronically. The system captures patient data, such as patient complaints, lab orders, medications, diagnoses, and procedures, at its source at the time of entry using a graphical user interface having touch screens. Using pen-based portable computers with wireless connections to a computer network, authorized healthcare providers can access, analyze, update and electronically annotate patient data even while other providers are using the same patient record. The system likewise permits instant, sophisticated analysis of patient data to identify relationships among the data considered. Moreover, the system includes the capability to access reference databases for consultation regarding allergies, medication interactions and practice guidelines. The system also includes the capability to incorporate legacy data, such as paper files and mainframe data, for a patient (see Abstract).

Rothschild recites a medical image management system and method that uses a central data management system to centrally manage the storage and transmission of electronic records containing medical images between remotely located facilities. A polling system is provided with remotely located workstations or local workstations so that the remote or local workstations may request queued data to be delivered that is awaiting delivery in the central database management system. The remotely located workstation or local image workstation communicates with a remotely located central data management system via a remote interface over the internet. The central database management system maintains and updates any changes

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in the IP address of a remote or local workstation, in a look up table. The central data management system may also, in addition, push data when received to the last known IP address in the look up table (see Abstract).

Microsoft Internet Explorer 5.0 (IE) is the set of core Web browsing technologies in Windows XP. IE is used for web browsing and is flexible and reliable. IE includes enhanced Web privacy features for all Windows users
(<http://www.microsoft.com/windows/ie/evaluation/overview/default.msp>).

Rejection of Claims 1-8 and 17-22 under 35 U.S.C. 103(a) over Mayaud (US Patent 5,845,255) in view of Evans (US Patent 5,924,074)

Reversal of the Final Rejection (hereinafter termed "rejection") of claims 1-8 and 17-22 under 35 U.S.C. 103(a) as being anticipated by US Patent 5,845,255 issued to Mayaud in view of US Patent 5,924,074 issued to Evans is respectfully requested because the rejection makes the following crucial errors in interpreting the cited reference.

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the examiner to establish a factual basis to support the legal conclusion of obviousness. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596, 1598 (Fed.Cir. 1988). In so doing, the Examiner is expected to make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (CCPA 1966), and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion, or implication

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in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. *Uniroya, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed.Cir. 1988), *cert. denied*, 488 U.S. 825 (1988); *Ashland Oil Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 28, 293, 227 USPQ 657, 664 (Fed.Cir. 1985), *cert. denied*, 475 U.S. 1017 (1986); *ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed.Cir. 1984). These showings by the Examiner are an essential part of complying with the burden of presenting a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed.Cir. 1992).

CLAIM 1

Independent claim 1 recites a method for “transferring medical record information of a patient between portable processing devices” comprising “on a first portable processing device, selecting information to be transferred in response to user command; establishing a bidirectional communication link with a second portable processing device; and communicating patient identification information and said selected information on said established communication link in response to user selection of a displayed icon.” These features are not shown (or suggested) in Mayaud or Evans either individually or together.

The Rejection fundamentally **miss-understands** and **miss-interprets** both the Evans and Mayaud references and **erroneously** alleges (on page 3 lines 1-3) that Evans teaches a method “for transferring medical record information between portable processing devices comprising establishing a bi-directional communication link (Abstract; figs. 3, 5-8 and 19-22; col. 9 lines 10-14)”. The Rejection recognizes on page 2 that Mayaud fails to show or suggest “a first portable processing device” that enables a user to establish a “**bidirectional**

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communication link with a second portable processing device” as in the present claimed invention. However, the Rejection erroneously alleges that Evans teaches a method “for transferring medical record information between portable processing devices comprising establishing a bi-directional communication link (Abstract; figs. 3, 5-8 and 19-22; col. 9 lines 10-14)”. Contrary to the Rejection statements made on page 3, Evans does NOT show or suggest “a first portable processing device” that enables a user to establish a “bidirectional communication link with a second portable processing device”. Evans in the Abstract; figs. 3, 5-8 and 19-22; col. 9 lines 10-14 merely contemplates communication with a non-portable host device at a point of care to enable a user to capture data for communication to a fixed location non-portable EMR (electronic medical record) repository and access data from the repository (Evans column 2 lines 32-38). Evans in column 9 lines 10-14, as relied on in the Rejection, describes “interface 204” that “permits communication with external sources to obtain patient data...and to transfer patient information...from the patient data repository 102 to external healthcare providers”. However, interface 204 is resident in fixed location repository 102 and does NOT communicate with a portable device at all. Rather the feature relied on in the Rejection supports bidirectional communication between a fixed location, non-portable patient record repository and other external non-portable systems. This is clear from Evans Figure 12 and accompanying description in column 9 lines 15-20. Thus, Evans is wholly unlike and unrelated to the present claimed invention which describes “transferring medical record information of a patient between portable processing devices”.

Further, neither Mayaud nor Evans alone or together show, suggest or contemplate “a first portable processing device” that enables a user to, (1) select “information to be transferred in response to user command”, (2) establish a “bidirectional communication link with a second

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portable processing device” and (3) communicate “patient identification information” and the “selected information” on the “established communication link in response to user selection of a displayed icon” as in the present claimed invention. Neither Mayaud nor Evans alone or together, recognize any advantage in “establishing a bidirectional communication link” supporting bidirectional communication between different portable processing devices and enabling a portable processing device to initiate direct bidirectional communication with another portable device. Further, neither reference provides any other reason or motivation for incorporating the claimed arrangement. In contrast, the present Application recognizes the need and advantage of the claimed capability and provides a 35 USC 112 compliant enabling description of how such a capability is to be implemented. The system of claim 1 enables “transferring patient record information between portable processing devices by pre-selecting data elements comprising the patient identification information” (Application page 2 lines 24-27, page 5 lines 9-12). The system is also advantageously used (as recited in claim 6 etc.) to validate a user of another portable processing device has authority to access the patient confidential information prior to transfer. These features address the deficiencies of known electronic systems for transferring patient medical data within a hospital, for example (Application page 2 lines 3-8).

Contrary to the present claimed invention, Evans and Mayaud are concerned with communication from a portable device to a **fixed location non-portable** host device for the purposes of data capture to update patient records and to access data in patient records from a fixed location patient record repository. An Email function enabling communication of an email message from one portable device to another device, as recognized in the Rejection on page 2, does not show or suggest “establishing a **bidirectional communication link** with a

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second portable processing device" as in the present claimed invention. Specifically, Email communication does not establish "a communication link" enabling "bidirectional communication". Further, Email is not capable of supporting direct transfer of patient record data from one portable device to another portable device in real time nor does it address the authorization issues involved. In addition, the disclosure in Mayaud or Evans concerning Email is limited to indicating "a Mail button 16" in Figure 1 is usable "for accessing an electronic mail ("E-Mail") system" (Mayaud column 12 lines 21-22). A centralized Email system simply sends an Email message to a central system via a communication link. There is no indication in Mayaud (with Evans) that Email is possible between two different portable devices and no 35 USC 112 compliant disclosure of "establishing a **bidirectional communication link** with a second portable processing device" as in the present claimed invention. There is also no suggestion in Mayaud (with Evans) of "establishing a **bidirectional communication link** with a second portable processing device" that addresses the authorization issues involved.

Even if Email communication was possible between two different portable devices, a message sent from a first device is only accessible if a second device at some later time establishes another different communication link to retrieve mail from a mailbox. Such communication does not provide or suggest providing the real time patient record data transfer, authorization and bidirectional capabilities of the claimed arrangement. In contrast, the claimed system is advantageously used (as recited in claim 6 etc.) to validate a user of another portable processing device has authority to access the patient confidential information **prior to data transfer** from a first portable device to a second portable device. These features address the deficiencies of known electronic systems for transferring patient medical data

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within a hospital, for example (Application page 2 lines 3-8) and are not recognized in the cited reference combination.

Neither reference alone or together contemplates "a first portable processing device" that enables a user to establish a "bidirectional communication link with a second portable processing device". Neither Mayaud nor Evans alone or together show, suggest or contemplate "a first portable processing device" that enables a user to, (1) select "information to be transferred in response to user command", (2) establish a "bidirectional communication link with a second portable processing device" and (3) communicate "patient identification information" and the "selected information" on the "established communication link in response to user selection of a displayed icon". In addition, the incorporation of the Evans bidirectional communication link between a records repository and external systems into the Mayaud system, provides a portable device able to communicate with a fixed location non-portable record repository and the record repository is able to bidirectionally communicate with other fixed location non-portable systems and devices. Such a system does NOT provide the features of the claimed arrangement. Consequently reconsideration of the Rejection of claim 1 under 35 USC 103(a) is respectfully requested.

CLAIM 2

Dependent claim 2 is considered to be patentable based on its dependence on claim 1. Therefore, the arguments presented above with respect to claim 1 also apply to claim 2. Claim 2 is also considered to be patentable because Mayaud with Evans neither disclose nor suggest "said established communication link with said second portable processing device includes a wireless link and said step of selecting information to be transferred comprises

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selecting at least one of, (a) medical information associated with a plurality of patients, (b) medical information associated with a specific patient, (c) laboratory test results for a specific patient, (d) a medical report associated with a plurality of patients and (e) medical information associated with a specific healthcare provider and an associated group of patients” as in the present claimed invention. Rather, the system produced from the combination of Mayaud with Evans teaches the advantage of having portable devices communicate with a fixed location host computer and does not suggest “transferring medical record information of a patient between portable processing devices” as in the present claimed invention. Mayaud (with Evans) also does not show or suggest “selecting information to be transferred” from “at least one of, (a) medical information associated with a plurality of patients, (b) medical information associated with a specific patient, (c) laboratory test results for a specific patient, (d) a medical report associated with a plurality of patients and (e) medical information associated with a specific healthcare provider and an associated group of patients” for transfer from “a first portable processing device” to “a second portable processing device” by “establishing” a “wireless” communication link between the devices. There is no 35 USC 112 compliant enabling disclosure in either Mayaud or Evans which discloses “transferring medical record information of a patient between portable processing devices” as in the present claimed invention. Thus withdrawal of the Rejection of Claim 2 under 35 USC 103(a) is respectfully requested.

CLAIM 3

Dependent claim 3 is considered to be patentable based on its dependence on claims 1 and 2. Therefore, the arguments presented above with respect to claims 1 and 2 also apply to claim 3. Claim 3 is also considered to be patentable because Mayaud does not show (or

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suggest) the feature combination of claim 3 in which "said step of selecting information to be transferred includes the step of supporting user navigation, in response to user command, through a plurality of display images to enable selection of said information to be transferred". Mayaud (with Evans) neither discloses nor suggests such a combination because Mayaud and Evans provide no 35 USC 112 compliant enabling disclosure that discloses "transferring medical record information of a patient between portable processing devices" as in the present claimed invention. Thus withdrawal of the Rejection of Claim 3 under 35 USC 103(a) is respectfully requested.

CLAIM 4

Dependent claim 4 is considered to be patentable based on its dependence on claim 1. Therefore, the arguments presented above with respect to claim 1 also apply to claim 4. Claim 4 is also considered to be patentable because Mayaud (with Evans) does not show (or suggest) "configuring said method of transferring patient record information between portable processing devices by pre-selecting data elements comprising said patient identification information" as in the present claimed invention. As previously explained, both Mayaud and Evans teach communication between a device with fixed location host computer and does not suggest "transferring medical record information of a patient between portable processing devices" as in the present claimed invention. Additionally, column 10, lines 11 – 31 of Mayaud relied on in the Rejection are merely concerned with security and providing access to patient record information and is wholly unrelated to "pre-selecting data elements comprising said patient information" for transfer between "portable processing devices" as in the present claimed invention. Therefore, Mayaud with Evans provide no 35 USC 112 compliant

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enabling disclosure that renders the present claimed invention unpatentable. Thus, withdrawal of the Rejection of Claim 4 under 35 USC 103(a) is respectfully requested.

CLAIM 5

Dependent claim 5 is considered to be patentable based on its dependence on claims 1 and 4. Therefore, the arguments presented above with respect to claims 1 and 4 also apply to claim 5. Claim 5 is also considered to be patentable because Mayaud (with Evans) neither discloses nor suggests "pre-selecting" data "elements comprising said patient identification information include at least two of (a) username, (b) password, (c) patient identifier, (d) patient gender identifier, (e) patient birth date and (f) calling application identification supporting return of control to said calling application upon completion of communication on an established communication link" as in the present claimed invention. As explained above with respect to claims 1 and 4, neither Mayaud nor Evans are concerned with "transferring patient record information between portable processing devices" as in the present claimed invention. Furthermore, Mayaud merely discloses using either passwords or other numeric codes to allow access to sensitive information and that each user of the system has their own password which allows them to access an individual style sheet on the host computer" (Mayaud, col. 10, lines 44 - 46). Therefore, the Mayaud (with Evans) system is wholly unrelated to the present claimed system and provides no 35 USC 112 enabling disclosure that renders the present claimed invention obvious. Thus withdrawal of the Rejection of Claim 5 under 35 USC 103(a) is respectfully requested.

CLAIM 6

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Dependent claim 6 is considered to be patentable based on its dependence on claim 1. Therefore, the arguments presented above with respect to claim 1 also apply to claim 6. Claim 6 is also considered to be patentable because Mayaud (with Evans) neither discloses nor suggests) "validating user authorization to access said selected information, and inhibiting communication of said selected information on said established communication link in response to unsuccessful validation of user authorization to access said selected information" as in the present claimed invention. Mayaud (with Evans) does not contemplate "transferring medical record information of a patient **between portable processing devices**" and does not recognize the need for, or provide any suggestion of, "validating user authorization to access...and inhibiting communication" of "selected information" to be transferred "**between portable processing devices**" to prevent unauthorized communication of patient medical data between "portable processing devices" as in the present claimed invention. Thus withdrawal of the Rejection of claim 6 under 35 USC 103(a) is respectfully requested.

CLAIM 7

Dependent claim 7 is considered to be patentable based on its dependence on claim 1. Therefore, the arguments presented above with respect to claim 1 also apply to claim 7. Claim 7 is also considered to be patentable because Mayaud (with Evans) neither disclose nor suggest "validating a second user is authorized to access said selected information, said second user being an intended recipient of said communicated selected information, and inhibiting communication of said selected information on said established communication link in response to unsuccessful validation of second user authorization to access said communicated selected information" as in the present claimed invention. As previously discussed, Mayaud with Evans does not contemplate "transferring medical record information of a patient

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between portable processing devices” and does not recognize the need for, or provide any suggestion of, “validating” an “intended recipient of said communicated selected information” is “authorized to access said selected information” and “inhibiting communication of said selected information on said established communication link in response to unsuccessful validation of second user authorization to access said communicated selected information” to prevent unauthorized communication of patient medical data between “portable processing devices” as in the present claimed invention.

Additionally, column 10, lines 20 – 31 of Mayaud on which the Rejection erroneously relies, is concerned the manner in which patient record access codes are to be obtained and that portions of the record can be prevented from being viewed by a user. Further, the system in Mayaud provide for an override to allow doctors to access this information. Applicant respectfully submits that these features do not provide reasonable 35 USC 112 compliant enabling disclosure of the claimed arrangement. Specifically, as Mayaud (as admitted in the Rejection) is not concerned with transferring “medical record information” between “portable devices”, the feature disclosed in the cited section of Mayaud, while relevant to controlling access to a file, is not concerned with “validating a second user” on a second portable device is “authorized to access selected information” as in the present claimed invention. As discussed above Mayaud is not concerned with direct communication between “portable devices” and therefore does not make unpatentable the present claimed invention. Thus withdrawal of the Rejection of claim 7 under 35 USC 103(a) is respectfully requested.

CLAIM 8

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Dependent claim 8 is considered to be patentable based on its dependence on claims 1 and 7. Therefore the arguments presented above with respect to claims 1 and 7 also apply to claim 8. Claim 8 is also considered to be patentable because Mayaud (with Evans) neither discloses nor suggests "receiving second user authorization information identifying a second user is authorized to access said selected information". As previously discussed, Mayaud with Evans does not contemplate "establishing a **bidirectional communication link**" between "**portable processing devices**" enabling "receiving second user authorization information identifying a second user" of a second portable device is "authorized to access said selected information" to prevent unauthorized communication of patient medical data between "portable processing devices" as in the present claimed invention. Thus withdrawal of the Rejection of claim 8 under 35 USC 103(a) is respectfully requested.

CLAIMS 17-21

Independent claim 17 describes a method for "receiving medical record information communicated to a first receiving portable processing device from a second portable processing device". The "first receiving portable processing device, validat[es] user authorization to access medical information" and "establish[es] a bidirectional communication link with a second portable processing device" "[A]ccess to said medical information [is inhibited] in response to unsuccessful validation of user authorization... by at least one of (a) inhibiting receiving said medical information and associated patient identification information on said established communication link, and (b) inhibiting storing said medical information and associated patient identification information received on said established communication link." These features are not shown (or suggested) in Mayaud or Evans alone or in combination.

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The Rejection recognizes on page 5 that Mayaud fails to show or suggest “a first receiving portable processing device” that enables a user to establish a “**bidirectional** communication link with a second portable processing device.” However, the Rejection **erroneously** alleges that Evans teaches a method “for transferring medical information of a patient between portable processing devices comprising establishing a bi-direction communication link (Abstract; figs. 3, 5-8 and 19-22; col. 9, lines 10-14).” Contrary to the Rejection statements made on page 5, Evans does NOT show or suggest “a **first receiving portable processing device**” that enables a user to establish a “**bidirectional** communication link with a second portable processing device.” Evans in the Abstract; figs. 3, 5-8 and 19-22; col. 9 lines 10-14 merely contemplates communication with a non-portable host device at a point of care to enable a user to capture data for communication to a fixed location non-portable EMR (electronic medical record) repository and access data from the repository (Evans, col. 2, lines 32-38). Evans in column 9, lines 10-14 relied on in the Rejection discusses “interface 204” that “permits communication with external sources to obtain patient data...and to transfer patient information from the patient data repository 102 to external healthcare providers.” However, interface 204 is resident in fixed location repository 102 and does NOT communicate with a portable device at all. Rather the feature relied on in the Rejection supports bidirectional communication between a fixed location, **non-portable** patient record repository and other external non-portable systems. This is clear from Evans Figure 12 and accompanying description in column 9, lines 15-20.

Further, neither Mayaud nor Evans alone or together show, suggest or contemplate “transferring medical record information of a patient **between portable processing devices**”

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and does not recognize the need for, or provide any suggestion of, "validating user authorization to access medical information; establishing a bidirectional communication link with a second portable processing device; inhibiting access to said medical information in response to unsuccessful validation of user authorization, said inhibiting access being performed by at least one of, (a) inhibiting receiving said medical information and associated patient identification information on said established communication link, and (b) inhibiting storing said medical information and associated patient identification information received on said established communication link" to prevent unauthorized communication of patient medical data between "portable processing devices". Neither Mayaud nor Evans alone or together, recognize any advantage in "establishing a bidirectional communication link" supporting bidirectional communication between portable processing devices and enabling a portable processing device to initiate direct bidirectional communication with another portable device. Further, neither reference provides any other reason or motivation for incorporating the claimed arrangement. In contrast, the Application recognizes the need and advantage of such capability and provides a 35 USC 112 compliant enabling description of how such a capability is to be implemented. The system of claim 17 enables "transferring patient record information between portable processing devices by pre-selecting data elements comprising the patient identification information" (Application page 2 lines 24-27, page 5 lines 9-12). The system is also advantageously used to validate a user of another portable processing device has authority to access the patient confidential information prior to transfer. These features address the deficiencies of known electronic systems for transferring patient medical data within a hospital, for example (Application page 2 lines 3-8).

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Evans and Mayaud are concerned with communication from a portable device to a **fixed location non-portable** host device for the purposes of data capture to update patient records and to access data in patient records from a fixed location patient record repository. An Email function enabling communication of an email message from one portable device to another device, as cited in the Rejection on page 5, does not show or suggest "establishing a **bidirectional communication link** with a second portable processing device". Email communication does not establish "a communication link" enabling "bidirectional communication". Further, Email is not capable of supporting direct transfer of patient record data from one portable device to another portable device in real time nor does it address the authorization issues involved. In addition, the disclosure in Mayaud or Evans concerning Email is limited to indicating "a Mail button 16" in Figure 1 is usable "for accessing an electronic mail ("E-Mail") system" (Mayaud column 12 lines 21-22). A centralized Email system simply sends an Email message to a central system via a communication link. There is no indication in Mayaud (with Evans) that Email is possible between two different portable devices and no 35 USC 112 compliant disclosure of "establishing a **bidirectional communication link** with a second portable processing device". There is also no suggestion in Mayaud (with Evans) of "establishing a **bidirectional communication link** with a second portable processing device" that addresses the authorization issues involved.

Even if Email communication was possible between two different portable devices, a message sent from a first device is only accessible if a second device at some later time establishes another different communication link to retrieve mail from a mailbox. Such communication does not provide or suggest providing the real time patient record data transfer, authorization and bidirectional capabilities of the claimed arrangement. In contrast,

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the claimed system is advantageously used to validate a user of another portable processing device has authority to access the patient confidential information **prior to data transfer** to a first receiving portable processing device from a second portable processing device. These features address the deficiencies of known electronic systems for transferring patient medical data within a hospital, for example (Application page 2 lines 3-8) and are not recognized in the cited reference combination.

Neither reference alone or together contemplates "a first receiving portable processing device" that enables a user to establish a **"bidirectional communication link with a second portable processing device"**. As previously discussed, neither Mayaud nor Evans alone or together show, suggest or contemplate "transferring medical record information of a patient **between portable processing devices**" and do not recognize the need for, or provide any suggestion of, "validating user authorization to access medical information; establishing a bidirectional communication link with a second portable processing device; inhibiting access to said medical information in response to unsuccessful validation of user authorization, said inhibiting access being performed by at least one of, (a) inhibiting receiving said medical information and associated patient identification information on said established communication link, and (b) inhibiting storing said medical information and associated patient identification information received on said established communication link" to prevent unauthorized communication of patient medical data between "portable processing devices". In addition, the incorporation of the Evans bidirectional communication link between a records repository and external systems into the Mayaud system, provides a portable device able to communicate with a fixed location non-portable record repository and the record repository is

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able to bidirectionally communicate with other fixed location non-portable systems and devices. Such a system does NOT provide the features of the claimed arrangement.

Claims 18-21 are dependent on Claim 17 and thus include the same limitations as claim 17. In view of this, Claims 18-21 are considered to be patentable for the reasons given in connection with claim 17.

In view of the above remarks, it is respectfully submitted that claim 17 of the present invention is neither disclosed nor suggested by Mayaud in view of Evans for the reasons discussed above. Consequently, it is respectfully requested that the rejection of claims 17-21 be withdrawn

CLAIM 22

Independent system claim 22 includes similar features as recited in Independent Claim 1 and is considered to be patentable for the same reasons as presented above regarding Independent Claim 1.

The system of claim 22 is a system for "transferring medical record information of a patient between portable processing devices." The system includes "a first portable processing device including a navigation processor supporting user navigation and selection of information to be transferred; and a communication network for establishing a bidirectional communication link with a second portable processing device" "[P]atient identification information and said selected information [is communicated] on said established communication link in response to user selection of a displayed icon." Therefore, similarly to

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Claim 1, Mayaud or Evans alone or in combination neither disclose nor suggest the features described in claim 22.

The Rejection fundamentally miss-understands and miss-interprets both the Evans and Mayaud references and erroneously alleges (on page 3 lines 1-3) that Evans teaches a system "for transferring medical record information of a patient between portable processing devices comprising establishing a bi-directional communication link (Abstract; figs. 3, 5-8 and 19-22; col. 9 lines 10-14)". The Rejection recognizes on page 2 that Mayaud fails to show or suggest "a first portable processing device" that enables a user to establish a "bidirectional communication link with a second portable processing device". However, the Rejection erroneously alleges that Evans teaches a system "for transferring medical record information of a patient between portable processing devices comprising establishing a bi-directional communication link (Abstract; figs. 3, 5-8 and 19-22; col. 9 lines 10-14)". Contrary to the Rejection statements made on page 3, Evans does NOT show or suggest "a first portable processing device" that enables a user to establish a "bidirectional communication link with a second portable processing device". Evans in the Abstract; figs. 3, 5-8 and 19-22; col. 9 lines 10-14 merely contemplates communication with a non-portable host device at a point of care to enable a user to capture data for communication to a fixed location non-portable EMR (electronic medical record) repository and access data from the repository (Evans column 2 lines 32-38). Evans in column 9 lines 10-14 relied on in the Rejection discusses "interface 204" that "permits communication with external sources to obtain patient data...and to transfer patient information...from the patient data repository 102 to external healthcare providers". However, interface 204 is resident in fixed location repository 102 and does NOT communicate with a portable device at all. Rather the feature relied on in the Rejection

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supports bidirectional communication between a fixed location, non-portable patient record repository and other external non-portable systems. This is clear from Evans Figure 12 and accompanying description in column 9 lines 15-20.

Further, neither Mayaud nor Evans alone or together show, suggest or contemplate "a first portable processing device" that includes "a navigation processor supporting user navigation and selection of information to be transferred; and a communication network for establishing a bidirectional communication link with a second portable processing device; and communicating patient identification information" and the "selected information" on the "established communication link in response to user selection of a displayed icon". Neither Mayaud nor Evans alone or together, recognize any advantage in "establishing a bidirectional communication link" supporting bidirectional communication between portable processing devices and enabling a portable processing device to initiate direct bidirectional communication with another portable device. Further, neither reference provides any other reason or motivation for incorporating the claimed arrangement. In contrast, the Application recognizes the need and advantage of such capability and provides a 35 USC 112 compliant enabling description of how such a capability is to be implemented. The system of claim 1 enables "transferring patient record information between portable processing devices by pre-selecting data elements comprising the patient identification information" (Application page 2 lines 24-27, page 5 lines 9-12). The system is also advantageously used (as recited in claim 6 etc.) to validate a user of another portable processing device has authority to access the patient confidential information prior to transfer. These features address the deficiencies of known electronic systems for transferring patient medical data within a hospital, for example (Application page 2 lines 3-8).

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Evans and Mayaud are concerned with communication from a portable device to a **fixed location non-portable** host device for the purposes of data capture to update patient records and to access data in patient records from a fixed location patient record repository. An Email function enabling communication of an email message from one portable device to another device, as cited in the Rejection on page 2, does not show or suggest "establishing a **bidirectional communication link** with a second portable processing device". Email communication does not establish "a communication link" enabling "bidirectional communication". Further, Email is not capable of supporting direct transfer of patient record data from one portable device to another portable device in real time nor does it address the authorization issues involved. In addition, the disclosure in Mayaud or Evans concerning Email is limited to indicating "a Mail button 16" in Figure 1 is usable "for accessing an electronic mail ("E-Mail") system" (Mayaud column 12 lines 21-22). A centralized Email system simply sends an Email message to a central system via a communication link. There is no indication in Mayaud (with Evans) that Email is possible between two different portable devices and no 35 USC 112 compliant disclosure of "establishing a **bidirectional communication link** with a second portable processing device". There is also no suggestion in Mayaud (with Evans) of "establishing a **bidirectional communication link** with a second portable processing device" that addresses the authorization issues involved.

Even if Email communication was possible between two different portable devices, a message sent from a first device is only accessible if a second device at some later time establishes another different communication link to retrieve mail from a mailbox. Such communication does not provide or suggest providing the real time patient record data

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transfer, authorization and bidirectional capabilities of the claimed arrangement. In contrast, the claimed system is advantageously used (as recited in claim 6 etc.) to validate a user of another portable processing device has authority to access the patient confidential information prior to data transfer from a first portable device to a second portable device. These features address the deficiencies of known electronic systems for transferring patient medical data within a hospital, for example (Application page 2 lines 3-8) and are not recognized in the cited reference combination.

Neither reference alone or together contemplates "a first portable processing device" that enables a user to establish a "bidirectional communication link with a second portable processing device". Neither Mayaud nor Evans alone or together show, suggest or contemplate "a first portable processing device" including "a navigation processor supporting user navigation and selection of information to be transferred" and "a communication network for establishing a bidirectional communication link with a second portable processing device" and communicating "patient identification information" and the "selected information" on the "established communication link in response to user selection of a displayed icon". In addition, the incorporation of the Evans bidirectional communication link between a records repository and external systems into the Mayaud system, provides a portable device able to communicate with a fixed location non-portable record repository and the record repository is able to bidirectionally communicate with other fixed location non-portable systems and devices. Such a system does NOT provide the features of the claimed arrangement. Consequently reconsideration of the Rejection of claim 22 under 35 USC 103(a) is respectfully requested.

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In view of the above remarks, it is respectfully submitted that Mayaud and Evans, alone or in combination, provide no 35 USC 112 compliant enabling disclosure that makes the present invention as claimed in claims 1, 17 and 22 unpatentable. As claims 2- 8 are dependent on claim 1 and claims 18 – 21 are dependent on claim 17, it is respectfully submitted that claims 2 – 8 and 18 – 21 are also not made unpatentable by Mayaud and/or Evans. Therefore, it is further respectfully submitted that this rejection has been satisfied and should be withdrawn.

Rejection of Claims 9, 10 and 12-16 under 35 U.S.C. 103(a) over Mayaud (US Patent 5,845,255) in view of Evans (US Patent 5,924,074) and further in view of Microsoft Internet Explorer 5.0 (IE)

Claims 9, 10 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,845,255 – Mayaud in view of U.S. Patent 5,924,074 – Evans and further in view of Microsoft Internet Explorer 5.0 (IE). These claims are considered patentable for reasons given in connection with claim 1 and for the following reasons.

CLAIMS 9, 12, 14

Dependent claim 9 is considered to be patentable based on its dependence on claim 1. Therefore, the arguments presented above with respect to claim 1 also apply to claim 9. Claim 9 is also considered to be patentable because claim 9 recites a method of “transferring medical record information of a patient **between portable processing devices**” by “establishing a bidirectional communication link” between the portable processing devices for “providing **updated patient record information** to a patient record information repository” (Specification,

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page 4, line 6) involving “storing a plurality of **communication settings** associated with a plurality of corresponding communication links; **sequentially initiating communication** on individual communication links, one at a time, using associated corresponding communication settings until an **acknowledgement** is received within a predetermined **time-out window** indicating a communication link with a second portable processing device is established”. These features are not shown or suggested in Mayaud with Evans in combination with IE.

The Rejection on page 8 recognizes that Mayaud does not disclose “**sequentially initiating communication** on individual communication links, one at a time, using associated corresponding communication settings until an **acknowledgement** is received within a predetermined **time-out window** indicating a communication link with a second portable processing device is established”. However, the Rejection on page 8, states that IE teaches “sequentially initiating communication on individual communication links, one at a time, using associated corresponding communication settings”. Contrary to both the Rejection statements on page 8 and the Advisory Action, neither IE nor Mayaud with Evans alone or together, suggest a “first portable processing” device “**sequentially initiating communication** on individual communication links, one at a time, using associated corresponding communication settings” for “establishing a bidirectional communication link” between portable processing devices. Further, neither IE nor Mayaud with Evans alone or together suggest employing this process in combination with providing an “**update of medical record information**” to “a patient record information repository” (Specification, page 4, line 6).

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The IE "Internet Options" and "Connections" submenu relied on in the Rejection page 8 allows a user to select a **single** communication link to use to initiate communication to the Internet, LAN or a Virtual Private Network. It does NOT enable "sequentially initiating communication on individual communication links, one at a time, using associated corresponding communication settings". The connections menu does NOT enable "**sequential**" initiation of communication on **multiple** individual communication links "one at a time" at all. There is no capability in the referenced menu to "sequentially" initiate communication on multiple different "communication links". In addition, neither IE nor Mayaud with Evans alone or together suggest "**sequentially initiating communication** on individual communication links, one at a time, using associated corresponding communication settings until an **acknowledgement** is received within a predetermined **time-out window** indicating a communication link with a **second portable** processing device is established".

These features address the deficiencies of known electronic systems for transferring patient medical data within a hospital, for example (Application page 2 lines 3-8). Neither, IE nor Mayaud with Evans address or contemplate these deficiencies. Further, none of the references provide any other motivation or reason for incorporating the claimed features. In addition, the incorporation of the IE features into the Mayaud (with Evans) system, as suggested by the Rejection, results in a system in which a portable processing device initiates Internet or network communication, on a single communication link, with a fixed location host computer using communication settings pre-configured using a configuration menu. Such a system does NOT provide the features of the claimed arrangement. Consequently withdrawal of the Rejection of claim 9 under 35 USC 103(a) is respectfully requested.

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Claims 12 and 14 are dependent on Claim 9 and thus include the same limitations as claim 9. In view of this, Claims 12 and 14 are considered to be patentable for the reasons given in connection with claim 9.

CLAIM 10

Dependent claim 10 is considered to be patentable based on its dependence on claims 1 and 9. Therefore, the arguments presented above with respect to claims 1 and 9 also apply to claim 10. Claim 10 is also considered to be patentable because Mayaud with Evans with IE does not show (or suggest) "sequentially initiating" communication "one at a time" on multiple communication links including "at least two" of "(a) connection via a PC compatible serial port, (b) connection via an infra-red link to a PC compatible serial port, (c) connection via an Ethernet compatible network (d) connection via an infra-red link to an Ethernet compatible network and (e) a wireless network connection". There is no capability in the referenced IE menu used with Mayaud with Evans to "sequentially" initiate communication on two different "communication links" of "(a) connection via a PC compatible serial port, (b) connection via an infra-red link to a PC compatible serial port, (c) connection via an Ethernet compatible network (d) connection via an infra-red link to an Ethernet compatible network and (e) a wireless network connection". The IE "Internet Options" and "Connections" submenu (with Mayaud with Evans) relied in the Rejection page 8 allows a user to select a single communication link to use to initiate communication to the Internet, LAN or a Virtual Private Network. It does NOT enable "sequentially initiating communication on individual communication links, one at a time, using associated corresponding communication settings. Consequently withdrawal of the Rejection of claim 10 under 35 USC 103(a) is respectfully requested.

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CLAIM 13

Dependent claim 13 is considered to be patentable based on its dependence on claims 1, 9 and 12. Therefore, the arguments presented above with respect to claims 1, 9 and 12 also apply to claim 13. Claim 13 is also considered to be patentable because Mayaud with Evans does not show (or suggest) "said set of communication settings include at least two of, (a) data rate, (b) protocol identifier, (c) sender identifier code, (d) error handling code identifier and (e) data format identifier". Mayaud with Evans with IE in Columns 25, 42, 46, Figure 3 and elsewhere, as relied on in the Rejection, does not show or suggest use of two of these parameters for communication between two portable processing devices. Thus, withdrawal of the Rejection of claim 13 under 35 USC 103(a) is respectfully requested.

CLAIM 15

Dependent claim 15 is considered to be patentable based on its dependence on claims 1 and 9. Therefore, the arguments presented above with respect to claims 1 and 9 also apply to claim 15. Claim 15 is also considered to be patentable because Mayaud with Evans does not show (or suggest) "communicating at least two of (a) username, (b) password, (c) patient identifier, (d) patient gender identifier, (e) patient birth date and (f) calling application identification supporting return of control to said calling application upon completion of communication on an established communication link". Mayaud (with Evans) in column 10, as relied on in the Rejection mentions passwords but does not suggest use of "(a) username...(c) patient identifier, (d) patient gender identifier, (e) patient birth date and (f) calling application identification" together with the features of claims 1 and 9. Thus, withdrawal of the Rejection of claim 15 under 35 USC 103(a) is respectfully requested.

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CLAIM 16

Dependent claim 16 is considered to be patentable based on its dependence on claims 1 and 9. Therefore, the arguments presented above with respect to claims 1 and 9 also apply to claim 16. Claim 16 is also considered to be patentable because Mayaud with Evans with IE does not show (or suggest) "repeating said initiating communication step for a predetermined number of times until a connection is established or a communication failure is declared". There is no suggestion in the combined references of "repeating" "sequential" initiation of communication on multiple individual communication links "one at a time" for a "predetermined number of times until a connection is established or a communication failure is declared".

In view of the above remarks, it is respectfully submitted that Mayaud, Evans and IE, alone or in combination, provide no 35 USC 112 compliant enabling disclosure that makes the present invention as claimed in claim 1 unpatentable. As claims 9, 10 and 12 - 16 are dependent on claim 1, it is respectfully submitted that claims 9, 10 and 12 - 16 are also not made unpatentable by Mayaud, Evans and IE. Therefore, it is further respectfully submitted that this rejection has been satisfied and should be withdrawn.

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**Rejection of Claim 11 under 35 U.S.C. 103(a) over Mayaud (US Patent 5,845,255)
in view of Evans (US Patent 5,924,074) and in view of Microsoft Internet Explorer 5.0
(IE) and further in view of Rothschild et al. (US Patent Application 2002/0019751)**

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,845,255 – Mayaud in view of U.S. Patent 5,924,074 – Evans and in view of Microsoft Internet Explorer 5.0 (IE) and further in view of U.S. Patent Application 2002/0019751 – Rothschild et al. This claim is considered to be patentable for reasons given in connection with claims 1 and 9 and for the following reasons.

CLAIM 11

Dependent claim 11 is considered to be patentable based on its dependence on claims 1 and 9. Therefore, the arguments presented above with respect to claims 1 and 9 also apply to claim 11. Claim 11 is also considered to be patentable because Mayaud with Rothschild with IE does not show (or suggest) “sequential” initiation of communication on multiple individual communication links “one at a time” “automatically upon detection of a lost connection to support seamless operation of said portable processing device”. The Rothschild scheme discussed in paragraph 0088 Relied on in the Rejection on page 10 (and the Advisory action) merely comprises a scheme for polling for, and storing, changed IP addresses. This scheme, with the teachings of the other references, does NOT suggest “sequential” initiation of communication on multiple individual communication links “one at a time” automatically “upon detection of a lost connection to support seamless operation of said portable processing device”. In addition there is no common problem recognition, motivation or other reason in the three cited references to combine the reference teachings to provide the claimed system.

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Further, the incorporation of the Evans, Rothschild and IE features with the Mayaud system, as suggested by the Rejection, results in a system in which a portable processing device initiates Internet or network communication, on a single communication link, with a fixed location host computer using communication settings pre-configured using a configuration menu involving polling to find changed IP addresses for updating communication settings. Such a system does NOT provide the features of the claimed arrangement.

Furthermore, Applicant respectfully disagrees with the assertion in the Advisory Action dated October 4, 2005 that "the features upon which applicant relies (i.e., automatically) are not recited in the rejected claims." Rather the use of the term 'automatically' is used only in connection with the arguments presented with respect to claim 11, which does indeed include the term 'automatically.'

Consequently, in view of the above remarks, it is respectfully submitted that Mayaud, Evans, IE and Rothschild et al., alone or in combination, do not provide any 35 USC 112 compliant enabling disclosure that makes the present invention as claimed in claims 1, 17 and 22 unpatentable. As claims 2 – 16 are dependent on claim 1 and claims 18 - 21 are dependent on claim 17, it is respectfully submitted that claims 2 – 16 and 18 - 21 are patentable for the same reasons as discussed above regarding independent claims 1 and 17. Therefore, withdrawal of the Rejection of claims 1- 22 under 35 USC 103(a) is respectfully requested.

VIII CONCLUSION

Neither Mayaud, nor Evans, nor IE nor Rothschild alone or in combination with one another disclose a method for transferring medical record information of a patient between

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portable processing devices. Mayaud, Evans, IE and Rothschild neither disclose nor suggest “on a first portable device, selecting information to be transferred in response to user command” as in the present claimed invention. Additionally, Mayaud, Evans, IE and Rothschild neither disclose nor suggest “on a first portable processing device, establishing a bidirectional communication link with a second portable processing device” as in the present claimed invention. Furthermore, Mayaud, Evans, IE and Rothschild neither disclose nor suggest “on a first portable processing device, communicating patient identification information and said selected information on said established communication link in response to user selection of a displayed icon” as in the present claimed invention. Mayaud, Evans, IE and Rothschild also neither disclose nor suggest “storing a plurality of communication settings associated with a plurality of corresponding communication links” and “sequentially initiating communication on individual communication links, one at a time, using associated corresponding communication settings until an acknowledgement is received within a predetermined time-out window indicating a communication link with a second portable processing device is established” as in the present claimed invention. Further, Mayaud, Evans, IE and Rothschild neither disclose nor suggest that “said step of sequentially initiating communication is performed automatically upon detection of a lost connection to support seamless operation of said portable processing device” as in the present claimed invention.

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Accordingly it is respectfully submitted that the rejection of Claims 1 ~ 22 should be reversed.

Respectfully submitted,
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APPENDIX I - APPEALED CLAIMS

1. (Previously Presented) A method for transferring medical record information of a patient between portable processing devices, comprising the steps of:

on a first portable processing device,

selecting information to be transferred in response to user command;

establishing a bidirectional communication link with a second portable processing device; and

communicating patient identification information and said selected information on said established communication link in response to user selection of a displayed icon.

2. (Previously Presented) A method according to claim 1, wherein

said established communication link with said second portable processing device includes a wireless link and

said step of selecting information to be transferred comprises selecting at least one of, (a) medical information associated with a plurality of patients, (b) medical information associated with a specific patient, (c) laboratory test results for a specific patient, (d) a medical report associated with a plurality of patients and (e) medical information associated with a specific healthcare provider and an associated group of patients.

3. (Original) A method according to claim 2, wherein

said step of selecting information to be transferred includes the step of

supporting user navigation, in response to user command, through a plurality of display images to enable selection of said information to be transferred.

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4. (Original) A method according to claim 1, including the step of configuring said method of transferring patient record information between portable processing devices by pre-selecting data elements comprising said patient identification information.

5. (Original) A method according to claim 4, wherein said data elements comprising said patient identification information include at least two of (a) username, (b) password, (c) patient identifier, (d) patient gender identifier, (e) patient birth date and (f) calling application identification supporting return of control to said calling application upon completion of communication on an established communication link.

6. (Original) A method according to claim 1, including the steps of validating user authorization to access said selected information, and inhibiting communication of said selected information on said established communication link in response to unsuccessful validation of user authorization to access said selected information.

7. (Original) A method according to claim 1, including the steps of validating a second user is authorized to access said selected information, said second user being an intended recipient of said communicated selected information, and inhibiting communication of said selected information on said established communication link in response to unsuccessful validation of second user authorization to access said communicated selected information.

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8. (Original) A method according to claim 7, including the step of receiving second user authorization information identifying a second user is authorized to access said selected information.

9. (Original) A method according to claim 1, including the step of storing a plurality of communication settings associated with a plurality of corresponding communication links;

sequentially initiating communication on individual communication links, one at a time, using associated corresponding communication settings until an acknowledgement is received within a predetermined time-out window indicating a communication link with a second portable processing device is established.

10. (Original) A method according to claim 9, wherein said plurality of communication links comprise at least two (a) connection via a PC compatible serial port, (b) connection via an infra-red link to a PC compatible serial port, (c) connection via an Ethernet compatible network (d) connection via an infra-red link to an Ethernet compatible network and (e) a wireless network connection.

11. (Original) A method according to claim 9, wherein said step of sequentially initiating communication is performed automatically upon detection of a lost connection to support seamless operation of said portable processing device.

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12. (Previously Presented) A method according to claim 9, wherein
said established communication link with said second portable processing
device includes a wireless link and

said communication settings comprise a set of communication settings
applicable to a corresponding individual communication link.

13. (Original) A method according to claim 12, wherein
said set of communication settings include at least two of, (a) data rate, (b)
protocol identifier, (c) sender identifier code, (d) error handling code identifier and (e) data
format identifier.

14. (Previously Presented) A method according to claim 9, wherein said
initiating communication step comprises

initiating communication on said plurality of communication links one at a time
in a predetermined sequential order.

15. (Original) A method according to claim 9, including the step of
communicating at least two of (a) username, (b) password, (c) patient identifier,
(d) patient gender identifier, (e) patient birth date and (f) calling application identification
supporting return of control to said calling application upon completion of communication on
an established communication link.

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16. (Original) A method according to claim 9, including the step of repeating said initiating communication step for a predetermined number of times until a connection is established or a communication failure is declared.

17. (Previously Presented) A method for receiving medical record information communicated to a first receiving portable processing device from a second portable processing device, comprising the steps of:

on a first receiving portable processing device,

validating user authorization to access medical information;

establishing a bidirectional communication link with a second portable processing device;

inhibiting access to said medical information in response to unsuccessful validation of user authorization, said inhibiting access being performed by at least one of,

(a) inhibiting receiving said medical information and associated patient identification information on said established communication link, and

(b) inhibiting storing said medical information and associated patient identification information received on said established communication link.

18. (Original) A method according to claim 17, including the step of initiating generation of a message to prompt a user to affirm receipt of said medical information is desired, and

inhibiting receipt of said medical information in response to a non-affirmation.

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19. (Previously Presented) A method according to claim 17, wherein
said established communication link with said second portable processing
device includes a wireless link and
said validation of user authorization comprises password validation.

20. (Original) A method according to claim 17, including the step of
configuring said method of transferring patient record information between
portable processing devices by pre-selecting data elements comprising said patient
identification information.

21. (Original) A method according to claim 20, wherein
said data elements comprising said patient identification information include at
least two of (a) username, (b) password, (c) patient identifier, (d) patient gender identifier, (e)
patient birth date and (f) calling application identification supporting return of control to said
calling application upon completion of communication on an established communication link.

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22. (Previously Presented) A system for transferring medical record information of a patient between portable processing devices, comprising:

a first portable processing device including,

a navigation processor supporting user navigation and selection of information to be transferred; and

a communication network for,

establishing a bidirectional communication link with a second portable processing device; and

communicating patient identification information and said selected information on said established communication link in response to user selection of a displayed icon.

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APPENDIX II - EVIDENCE

Applicant does not rely on any additional evidence other than the arguments submitted hereinabove.

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APPENDIX III - RELATED PROCEEDINGS

There is currently a co-pending appeal in related application serial number 09/939,965. The present application and the application serial number 09/939,965 claim priority from the same Provisional Application Serial No. 60/287,644.

An Appeal Brief in related application serial number 09/939,899 was filed on July 7, 2005. The present application and application serial number 09/939,899 claim priority from the same Provisional Application Serial No. 60/287,644. In response to the Appeal Brief filed July 7, 2005, a Final Office Action was mailed on October 7, 2005. The time period for responding to this Final Office Action is currently pending.

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APPENDIX IV - TABLE OF CASES

1. *In re Fine*, 5 USPQ 2d 1600, (Fed Cir. 1988)
2. *ACS Hospital Systems Inc v. Montefiore Hospital*, 221 USPQ 929,933 (Fed. Cir. 1984)
3. *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (CCPA 1966)
4. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed.Cir. 1988), *cert. denied*, 488 U.S. 825 (1988)
5. *Ashland Oil Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 28, 293, 227 USPQ 657, 664 (Fed.Cir. 1985), *cert. denied*, 475 U.S. 1017 (1986)
6. *In re Oetiker*, 977 F2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992)

APPENDIX V - LIST OF REFERENCES

<u>U.S. Patent Number</u>	<u>Issued Date</u>	<u>Inventors</u>
5,845,255	December 1, 1998	Mayaud
5,924,074	July 13, 1999	Evans

<u>U.S. Patent Application</u>	<u>Publication Date</u>	<u>Inventors</u>
<u>Publication</u> US 2002/0019751 A1	February 14, 2002	Rothschild et al.

Other References

Microsoft Internet Explorer 5.0.

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